105.2050_WitRpt_Schwartz_pl

Q Well, now, there is a map here, I understand, showing that there are two cedar saplings here and a stump behind, and that they are the distance shown on this map from the place where the bodies were found. The bodies were here (indicating); here isDerussey's Lane and here are two cedar saplings. When you were put on the case did you go there and see those cedar saplings?

A Yes, sir.

Q Will you take the stand, please. Did you investigate around those cedar saplings to see whether there were any marks? A. Yes, sir.

Q What did you see at those cedar saplings in the way of marks? A. I found what appeared to be hoof prints of an animal, I presume a horse.

Q Was it a horse or was it a mule?

A I presume a mule because the impression would be too small for a horse.

Q And were they shod or unshod?

A Unshod.

Q Did you find any other evidence of the presence there of a mule? A. Yes, sir; where the animal had been tied it ate some shrubbery and there was also some manure.

Q Those marks were not fresh, were they?

A No, sir; they were not.

Q And what would you say, were they at least a month old?

105.2050 p2

A Well, as near as I could judge, at least a month or older than that.

Q You were not called into this case until forty four days after, were you? A. I should judge in October.

Q You never had any cards given you, did you, in this case?

A No, sir.

Q How long were you working on the case?

A One day.

Q Who were you working under, Mr. Beekman or Mr. Striker?

A Under Mr. Mott.

Q He was Special Attorney? A. Attorney.

Q Were there photographs taken of these mule tracks and the stuff that had been eaten by the animal and the refuse there? A. Well, there were a number of photographs taken of that vicinity and I presume among those a photograph taken of that.

Q Who took those photographs?

A Mr. Day, official photographer of the Newark Police Department.

Q What became of those? A. I don't know.

Q You haven't got them? A. No.

CROSS EXAMINATION BY MR.PFEIFFER:

Q You say you made this investigation forty four days after the crime was committed?

105.2050 p3

A It might have been a shorter time than that.

Q When was it? A. In October.

Q Wasn't it after Mr. Mott came into the case?

A Yes, sir; it was.

Q You, from Newark, did not come into the case until he came into it, did you? A. No, sir.

Q And you went out there and from an examination of the stump and a mark on a tree, you mean to come here and testify that you can say forty four days before that there was a mule present during the night tied up to that tree? A. I have no recollection of making that statement.

Q It is clearly the implication of your testimony, Mr. Schwartz that that was the purpose for which it was offered by Senator Simpson.

MR. SIMPSON: If it please the Court, in addition to the counseller's many mental gifts which he enjoys, he is able to tell what my purpose is. I don't think he knows it yet. I have made no implication whatever. I don't think it is fair to attack this witness who has no interest in this case, who comes here under subpoena and refused to come without a subpoena, and tell the physical evidence he found, the implication to be found, be-

105.2050 p4

is for your Honor to say, or for a Grand Jury, or for a trial jury.

MR. PFEIFFER: The Senator has not denied even yet, what he was at, or that it was asked for the purpose of proving just what I said to this man in my question.

MR. SIMPSON: Yes, I will say that it was offered for the purpose of corroborating Mrs. Gibson when she said she tied a mule to this place, and he saw mule tracks there of an unshod mule exactly at these cedar saplings at the point identified by her. That is the purpose of it. My objection is that he has no right to inject the statement about the implication.

Q Mr. Schwartz, you know, in the interval between September 16th and the time when you went out there, there had been thousandsupon thousands of people out and around that scene is that correct? A. Yes, sir.

Q With horses and automobiles and every conceivable kind of convenience.

A There was no sign of any great amount of people having been in that vicinity of these cedar trees and where these marks were.

61

Q You say there had not been anybody around there?